

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ELECTRONIC SOUND, INC., a Nebraska  
corporation,

Plaintiff,

vs.

NORTH AMERICAN SPECIALTY  
INSURANCE COMPANY, a New Hampshire  
Insurance Company; and ZATA ELECTRIC,  
LLC,

Defendants.

**8:23CV199**

**ORDER ON VOLUNTARY DISMISSAL  
OF DEFENDANT NORTH AMERICAN  
SPECIALTY INSURANCE COMPANY**

Plaintiff Electronic Sound, Inc., filed a Complaint alleging a claim under the Miller Act, [40 U.S.C. § 3133](#) *et seq.* against defendant North American Specialty Insurance Company and two breach of contract claims against defendant Zata Electric, LLC. [Filing 1 at 3–5](#). The record shows that both defendants have been served with the summons in this case, *see* [Filing 13](#); [Filing 16](#), but neither defendant has appeared, answered, or otherwise responded to the Complaint in this matter. The record also shows that Electronic Sound obtained the Clerk’s Entry of Default of defendant Zata Electric, LLC, upon the record. [Filing 15](#).

This case is before the Court on Plaintiff’s Motion to Dismiss Defendant North American Specialty Insurance Company. [Filing 17](#). Specifically, Electronic Sound moves to dismiss its first cause of action in the Complaint with prejudice and moves to dismiss defendant North American Specialty Insurance Company only as a party because a settlement has been entered regarding that Defendant. [Filing 17 at 1](#). Thus, it appears that Electronic Sound will pursue a default judgment against Zata Electric. Under the circumstances, the Court finds that dismissal of the first cause of

action in its Complaint and the dismissal of defendant North American Specialty Insurance Company is appropriate. Accordingly,

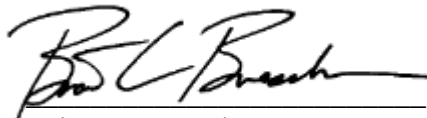
IT IS ORDERED as follows:

1. Plaintiff's Motion to Dismiss Defendant North American Specialty Insurance Company, [Filing 17](#), is granted;
2. Plaintiff's first cause of action in its Complaint is dismissed with prejudice, with no award of costs or attorney's fees to either party to that cause of action; and
3. Defendant North American Specialty Insurance Company only is dismissed as a party to this lawsuit.

This case shall proceed on the second and third causes of action in Plaintiff's Complaint against defendant Zata Electric, LLC.

Dated this 8th day of August, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher  
United States District Judge